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To: Finance

SENATE BILL NO. 2365

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO  
2 INCREASE THE AMOUNT OF COMPENSATION RECEIVED BY A MEMBER OF THE  
3 NATIONAL GUARD OR RESERVE FORCES OF THE UNITED STATES AS PAYMENT  
4 FOR INACTIVE DUTY TRAINING, ACTIVE DUTY TRAINING AND STATE ACTIVE  
5 DUTY, THAT IS EXEMPT FROM TAXATION UNDER THE STATE INCOME TAX LAW  
6 FROM \$5,000.00 TO \$15,000.00.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 SECTION 1. Section 27-7-15, Mississippi Code of 1972, is  
9 amended as follows:[JU1]

10 27-7-15. (1) For the purposes of this article, except as  
11 otherwise provided, the term "gross income" means and includes the  
12 income of a taxpayer derived from salaries, wages, fees or  
13 compensation for service, of whatever kind and in whatever form  
14 paid, including income from governmental agencies and subdivisions  
15 thereof; or from professions, vocations, trades, businesses,  
16 commerce or sales, or renting or dealing in property, or  
17 reacquired property; also from annuities, interest, rents,  
18 dividends, securities, insurance premiums, reinsurance premiums,  
19 considerations for supplemental insurance contracts, or the  
20 transaction of any business carried on for gain or profit, or  
21 gains, or profits, and income derived from any source whatever and  
22 in whatever form paid. The amount of all such items of income  
23 shall be included in the gross income for the taxable year in

24 which received by the taxpayer. The amount by which an eligible  
25 employee's salary is reduced pursuant to a salary reduction  
26 agreement authorized under Section 25-17-5 shall be excluded from  
27 the term "gross income" within the meaning of this article.

28 (2) In determining gross income for the purpose of this  
29 section, the following, under regulations prescribed by the  
30 commissioner, shall be applicable:

31 (a) Dealers in property. Federal rules, regulations  
32 and revenue procedures shall be followed with respect to  
33 installment sales.

34 (b) Casual sales of property. Federal rules,  
35 regulations and revenue procedures shall be followed with respect  
36 to installment sales.

37 (i) The term "installment sale" means a  
38 disposition of property where at least one (1) payment is to be  
39 received after the close of the taxable year in which the  
40 disposition occurs.

41 (ii) The term "installment method" means a method  
42 under which the income recognized for any taxable year from the  
43 disposition is that proportion of the payments received in that  
44 year which the gross profit (realized or to be realized when  
45 payment is completed) bears to the total contract price.

46 (c) Reserves of insurance companies. In the case of  
47 insurance companies, any amounts in excess of the legally required  
48 reserves shall be included as gross income.

49 (d) Affiliated companies or persons. As regards sales,  
50 exchanges or payments for services from one to another of  
51 affiliated companies or persons or under other circumstances where  
52 the relation between the buyer and seller is such that gross  
53 proceeds from the sale or the value of the exchange or the payment  
54 for services are not indicative of the true value of the subject

55 matter of the sale, exchange or payment for services, the  
56 commissioner shall prescribe uniform and equitable rules for  
57 determining the true value of the gross income, gross sales,  
58 exchanges or payment for services, or require consolidated returns  
59 of affiliates.

60 (e) Alimony and separate maintenance payments. The  
61 federal rules, regulations and revenue procedures in determining  
62 the deductibility and taxability of alimony payments shall be  
63 followed in this state.

64 (f) Reimbursement for expenses of moving. There shall  
65 be included in gross income (as compensation for services) any  
66 amount received or accrued, directly or indirectly, by an  
67 individual as a payment for or reimbursement of expenses of moving  
68 from one residence to another residence which is attributable to  
69 employment or self-employment.

70 (3) In the case of taxpayers other than residents, gross  
71 income includes gross income from sources within this state.

72 (4) The words "gross income" do not include the following  
73 items of income which shall be exempt from taxation under this  
74 article:

75 (a) The proceeds of life insurance policies and  
76 contracts paid upon the death of the insured. However, the income  
77 from the proceeds of such policies or contracts shall be included  
78 in the gross income.

79 (b) The amount received by the insured as a return of  
80 premium or premiums paid by him under life insurance policies,  
81 endowment, or annuity contracts, either during the term or at  
82 maturity or upon surrender of the contract.

83           (c) The value of property acquired by gift, bequest,  
84 devise or descent, but the income from such property shall be  
85 included in the gross income.

86           (d) Interest upon the obligations of the United States  
87 or its possessions, or securities issued under the provisions of  
88 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the  
89 War Finance Corporation, or obligations of the State of  
90 Mississippi or political subdivisions thereof.

91           (e) The amounts received through accident or health  
92 insurance as compensation for personal injuries or sickness, plus  
93 the amount of any damages received for such injuries or such  
94 sickness or injuries, or through the War Risk Insurance Act, or  
95 any law for the benefit or relief of injured or disabled members  
96 of the military or naval forces of the United States.

97           (f) Income received by any religious denomination or by  
98 any institution or trust for moral or mental improvements,  
99 religious, Bible, tract, charitable, benevolent, fraternal,  
100 missionary, hospital, infirmary, educational, scientific,  
101 literary, library, patriotic, historical or cemetery purposes or  
102 for two (2) or more of such purposes, if such income be used  
103 exclusively for carrying out one or more of such purposes.

104           (g) Income received by a domestic corporation which is  
105 "taxable in another state" as this term is defined in this  
106 article, derived from business activity conducted outside this  
107 state. Domestic corporations taxable both within and without the  
108 state shall determine Mississippi income on the same basis as  
109 provided for foreign corporations under the provisions of this  
110 article.

111           (h) In case of insurance companies, there shall be  
112 excluded from gross income such portion of actual premiums  
113 received from an individual policyholder as is paid back or  
114 credited to or treated as an abatement of premiums of such  
115 policyholder within the taxable year.

116           (i) Income from dividends that has already borne a tax  
117 as dividend income under the provisions of this article, when such  
118 dividends may be specifically identified in the possession of the  
119 recipient.

120           (j) Amounts paid by the United States to a person as  
121 added compensation for hazardous duty pay as a member of the Armed  
122 Forces of the United States in a combat zone designated by  
123 Executive Order of the President of the United States.

124           (k) Amounts received as retirement allowances,  
125 pensions, annuities or optional retirement allowances paid under  
126 the federal Social Security Act, the Railroad Retirement Act, the  
127 Federal Civil Service Retirement Act, or any other retirement  
128 system of the United States government, retirement allowances paid  
129 under the Mississippi Public Employees' Retirement System,  
130 Mississippi Highway Safety Patrol Retirement System or any other  
131 retirement system of the State of Mississippi or any political  
132 subdivision thereof. The exemption allowed under this paragraph  
133 (k) shall be available to the spouse or other beneficiary at the  
134 death of the primary retiree.

135           (l) Amounts received as retirement allowances,  
136 pensions, annuities or optional retirement allowances paid by any  
137 public or governmental retirement system not designated in  
138 subsection (k) or any private retirement system or plan of which

139 the recipient was a member at any time during the period of his  
140 employment. Amounts received as a distribution under a Roth  
141 individual retirement account shall be treated in the same manner  
142 as provided under the Internal Revenue Code of 1986, as amended.  
143 The exemption allowed under this paragraph (l) shall be available  
144 to the spouse or other beneficiary at the death of the primary  
145 retiree.

146 (m) Compensation not to exceed the aggregate sum of  
147 Fifteen Thousand Dollars (\$15,000.00) for any taxable year  
148 received by a member of the National Guard or Reserve Forces of  
149 the United States as payment for inactive duty training, active  
150 duty training and state active duty.

151 (n) Compensation received for active service as a  
152 member below the grade of commissioned officer and so much of the  
153 compensation as does not exceed the aggregate sum of Five Hundred  
154 Dollars (\$500.00) per month received for active service as a  
155 commissioned officer in the Armed Forces of the United States for  
156 any month during any part of which such members of the Armed  
157 Forces (i) served in a combat zone as designated by Executive  
158 Order of the President of the United States; or (ii) was  
159 hospitalized as a result of wounds, disease or injury incurred  
160 while serving in such combat zone.

161 (o) The proceeds received from federal and state  
162 forestry incentives programs.

163 (p) The amount representing the difference between the  
164 increase of gross income derived from sales for export outside the  
165 United States as compared to the preceding tax year wherein gross  
166 income from export sales was highest, and the net increase in

167 expenses attributable to such increased exports. In the absence  
168 of direct accounting the ratio of net profits to total sales may  
169 be applied to the increase in export sales. This item (p) shall  
170 only apply to businesses located in this state engaging in the  
171 international export of Mississippi goods and services. Such  
172 goods or services shall have at least fifty percent (50%) of value  
173 added at a location in Mississippi.

174 (q) Amounts paid by the federal government for the  
175 construction of soil conservation systems as required by a  
176 conservation plan adopted pursuant to 16 USCS 3801 et seq.

177 (r) The amount deposited in a medical savings account,  
178 and any interest accrued thereon, that is a part of a medical  
179 savings account program as specified in the Medical Savings  
180 Account Act under Sections 71-9-1 through 71-9-9; provided,  
181 however, that any amount withdrawn from such account for purposes  
182 other than paying eligible medical expense or to procure health  
183 coverage, shall be included in gross income.

184 (s) Amounts paid by the Mississippi Soil and Water  
185 Conservation Commission from the Mississippi Soil and Water  
186 Cost-Share Program for the installation of water quality best  
187 management practices.

188 (t) Dividends received by a holding corporation, as  
189 defined in Section 27-13-1, from a subsidiary corporation, as  
190 defined in Section 27-13-1.

191 (5) Prisoners of war, missing in action-taxable status.

192 (a) Members of the Armed Forces. Gross income does not  
193 include compensation received for active service as a member of  
194 the Armed Forces of the United States for any month during any

195 part of which such member is in a missing status, as defined in  
196 paragraph (d) of this subsection, during the Vietnam Conflict as a  
197 result of such conflict.

198 (b) Civilian employees. Gross income does not include  
199 compensation received for active service as an employee for any  
200 month during any part of which such employee is in a missing  
201 status during the Vietnam Conflict as a result of such conflict.

202 (c) Period of conflict. For the purpose of this  
203 subsection, the Vietnam Conflict began February 28, 1961, and ends  
204 on the date designated by the President by Executive Order as the  
205 date of the termination of combatant activities in Vietnam. For  
206 the purpose of this subsection, an individual is in a missing  
207 status as a result of the Vietnam Conflict if immediately before  
208 such status began he was performing service in Vietnam or was  
209 performing service in Southeast Asia in direct support of military  
210 operations in Vietnam. "Southeast Asia" as used in this paragraph  
211 is defined to include Cambodia, Laos, Thailand and waters adjacent  
212 thereto.

213 (d) "Missing status" means the status of an employee or  
214 member of the Armed Forces who is in active service and is  
215 officially carried or determined to be absent in a status of (i)  
216 missing; (ii) missing in action; (iii) interned in a foreign  
217 country; (iv) captured, beleaguered or besieged by a hostile  
218 force; or (v) detained in a foreign country against his will; but  
219 does not include the status of an employee or member of the Armed  
220 Forces for a period during which he is officially determined to be  
221 absent from his post of duty without authority.

222 (e) "Active service" means active federal service by an



223 employee or member of the Armed Forces of the United States in an  
224 active duty status.

225 (f) "Employee" means one who is a citizen or national  
226 of the United States or an alien admitted to the United States for  
227 permanent residence and is a resident of the State of Mississippi  
228 and is employed in or under a federal executive agency or  
229 department of the Armed Forces.

230 (g) "Compensation" means (i) basic pay; (ii) special  
231 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)  
232 basic allowance for subsistence; and (vi) station per diem  
233 allowances for not more than ninety (90) days.

234 (h) If refund or credit of any overpayment of tax for  
235 any taxable year resulting from the application of subsection (5)  
236 of this section is prevented by the operation of any law or rule  
237 of law, such refund or credit of such overpayment of tax may,  
238 nevertheless, be made or allowed if claim therefor is filed with  
239 the State Tax Commission within three (3) years after the date of  
240 the enactment of this subsection.

241 (i) The provisions of this subsection shall be  
242 effective for taxable years ending on or after February 28, 1961.

243 (6) A shareholder of an S corporation, as defined in Section  
244 27-8-3(1) (g), shall take into account the income, loss, deduction  
245 or credit of the S corporation only to the extent provided in  
246 Section 27-8-7(2).

247 SECTION 2. Nothing in this act shall affect or defeat any  
248 claim, assessment, appeal, suit, right or cause of action for  
249 taxes due or accrued under the income tax laws before the date on  
250 which this act becomes effective, whether such claims,

251 assessments, appeals, suits or actions have been begun before the  
252 date on which this act becomes effective or are begun thereafter;  
253 and the provisions of the income tax laws are expressly continued  
254 in full force, effect and operation for the purpose of the  
255 assessment, collection and enrollment of liens for any taxes due  
256 or accrued and the execution of any warrant under such laws before  
257 the date on which this act becomes effective, and for the  
258 imposition of any penalties, forfeitures or claims for failure to  
259 comply with such laws.

260 SECTION 3. This act shall take effect and be in force from  
261 and after January 1, 2000.